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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/651,188   | 08/28/2003  | Ronald L. Mahany     | 14426US02           | 8344             |
| 23446  | 7590        | 11/28/2006           | EXAMINER            |                  |
| MCANDREWS HELD & MALLOY, LTD<br>500 WEST MADISON STREET<br>SUITE 3400<br>CHICAGO, IL 60661 |             |                      | PATEL, AJIT         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2616                |                  |

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/651,188

Applicant(s)

MAHANY ET AL.

Examiner

AJIT G. PATEL

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-30, 34-49 and 53-56 is/are rejected.
- 7) ☒ Claim(s) 31-33, 50-52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6 pages
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 18-20,23-26,30,34,37-40,44,45,49, 53 and 56 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Koenck et al. (newly cited 2004/0182936).

For Claims 18-20,23-26,30,34,37-40,44,45,49, 53 and 56 , Koenck et al. disclose a multi-level hierarchical radio frequency communication system comprising a first

wireless network (see box 18 in figure 1) ;

a vehicle having a power supply associated therewith(see box 26 in figure 1);

a plurality of network devices operable to wirelessly communicate

with one another to form a second wireless network (see boxes 34 and 38 in figure 1)operating as a sub network in the first wireless network(see boxes 15 and 40 in figure 1); and

at least a first network device of the plurality of network devices being

operable to receive power from the power supply associated with the vehicle(see box 26 in figure 1), and operable to participate on the first wireless network to provide

access for a second network device of the plurality of network devices to the first wireless network;

wherein the first network device of the plurality of network devices comprises an access server(see box 71 in figure 1); and

wherein the mobile network device participates on the wireless peripheral sub network when the mobile network device is within the relatively shorter range of the wireless peripheral sub network (see short range between boxes 164 and 100 in figure 18).

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21,22,27-29,35,36,41-43,46-48,and 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koenck et al.

For Claims 21,22,27-29,35,36,41-43,46-48,and 54-55, Koenck et al. disclose all the subject matter of the claimed invention with the exception of the first and second protocols as recited in claims 21,22,27,28,41,42,43,46,and 47 ; a state of low power consumption when not communicating as recited in claims 29 and 48; using lower power transmissions to device and using higher power transmission when communicating with the wireless premises network as recited in claims 35 and 54; and conducting wireless communication at selected power levels in a communications network as recited in claims 36 and 55. However, the first and second protocols ; a state of low power consumption when not communicating; using lower power transmissions to device; using higher power transmission when communicating with the wireless premises network; and conducting wireless communication at selected power levels are well-known in the art. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the first and second protocols ; a state of low power consumption when not communicating; using lower power transmissions to device; using higher power transmission when communicating with the wireless premises network; and conducting wireless communication at selected power levels as well-known in the art in the communication network of Koenck et al.

The first and second protocols ; a state of low power consumption when not communicating; using lower power transmissions to device; using higher power transmission when communicating with the wireless premises network; and conducting wireless communication at selected power levels can be implemented/modified into the

network of Koenck et al. since reference does teach the protocol and power vehicle.

The first and second protocols ; a state of low power consumption when not communicating; using lower power transmissions to device; using higher power transmission when communicating with the wireless premises network; and conducting wireless communication at selected power levels as well-known in the art can be using in the network of Koenck et al. being that it saves power and adapted to the different protocols.

4. Claims 31-33 and 50-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Applicant's arguments filed 8/29/2006 have been fully considered but they are not persuasive. Applicant argued that the present application and the cited Koenck reference both claim priority to a common ancestor (US Patent 6,006,100) and therefore, Koenck (2004/0182936) reference is not prior art to the present application. The present application is a continuation of US Application 08/499,328 (US Patent 6,654,378), which is a continuation -in-part of US Application 08/239,267 (US Patent 6,006,100). Examiner disagrees with the applicant. In order to consider the priority date of the continuation in part application 08/239,267, the applicant is requested to point out where the claim limitation in the present application is supported in the prior continuation in part application 08/239,267.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY-SATURDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AP

  
Ajit Patel  
Primary Examiner